

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

ANTONIO CASOLA, INTERTRADING  
AMERICAS, INC., and WARRIOR  
CORP.,

Plaintiffs,

v.

EARL LAMBERT, JOAN ELENOR  
LAMBERT, ALCAN CORP., CENTER-  
LINE CORP., and LETLAM CORP.,

Defendants.

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CIVIL NO. 1994-0006

**APPEARANCES:**

Ronald W. Belfon, Esq.  
Belfon and Evert  
1217 Bjerge Gade,  
St. Thomas, U.S.V.I. 00804  
*Attorney for Plaintiffs*

Rhys S. Hodge, Esq.  
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P.O. Box 6520  
St. Thomas, U.S.V.I. 00804  
*Attorney for Defendants*

**MEMORANDUM OPINION**

**Finch, Chief Judge**

Defendants Earl Lambert, his wife Joan Lambert, and his corporations Alcan Corp. ("Alcan"), Centerline Corp. ("Centerline") and Letlam Corp. ("Letlam") have moved this Court for summary judgment pursuant to Fed. R. Civ. P. 56. Defendants also move for judgment on the pleadings under Fed. R. Civ. P.

12(c). Because the matters here are outside the pleadings and are not excluded by the Court, the Motion for Judgment on the Pleadings shall be treated as one for summary judgment. See Fed. R. Civ. P. 12(c). For the reasons stated herein the Court denies Defendants' Motion for Summary Judgment.

### **Facts and Prior Proceedings**

Because Defendants have moved for summary judgment on Counts I and II of Plaintiffs' Amended Complaint, this Opinion addresses only those Counts.

Defendant Earl Lambert is the president and sole shareholder of Centerline, Alcan and Letlam. Defendant Joan Lambert is an officer of the Defendant companies.

Plaintiff Antonia Casola, the owner of Warrior Corp. ("Warrior"), purchased from the Royal Bank of Canada a promissory note of Defendant Centerline. Thus, Plaintiff is Alcan's creditor.

Alcan filed its Chapter 11 petition in February 1987, and its reorganization plan was filed on October 2, 1987. On October 21, 1988, the U.S. Bankruptcy Court for the Virgin Islands approved Defendant Alcan's Plan of Reorganization.

On or about February 16, 1989, Defendant Earl Lambert filed a Chapter 13 bankruptcy which was subsequently converted under court order to a Chapter 11 bankruptcy. Centerline filed three Chapter 11 petitions. The first was filed on November 4, 1987,

the second on February 16, 1989, and the third on April 18, 1990. Centerline was subsequently converted to a Chapter 7 case and closed in 1991.

Plaintiffs filed suit on this matter on or about January 10, 1995, alleging fraudulent conveyances of assets under 28 V.I.C. § 171 et. seq. on the part of Defendants Earl and Joan Lambert. Plaintiffs claim that the primary act of fraud committed by the Lamberts was the alleged sale of equipment in which Warrior had a security interest and which transaction was not reflected in the bankruptcy filings of Alcan. Plaintiffs claim that they first obtained knowledge of the alleged equipment sale on June 17, 1992, at the creditors' meeting held in the third Centerline bankruptcy.

Plaintiffs also allege that the Lamberts and Centerline committed two acts of fraud after the bankruptcy court approved Alcan's reorganization plan. First, Plaintiffs claim that because they had no knowledge of the alleged equipment sale by Centerline to Alcan in 1985 and because such sale was not reflected in the 1987 Alcan bankruptcy schedules, Defendants' subsequent filing of a schedule in Centerline's third Chapter 11 petition which reflected this alleged transaction was itself an independent act of fraud committed post-Alcan. Second, Plaintiffs allege that the documents which Centerline produced purporting to memorialize the equipment sale were actually created after the fact and during the context of the third

Centerline Chapter 11 case. Plaintiffs proffer the 1985 Centerline corporate minutes and sale documents as examples of such documents.

In the instant motion, Defendants aver that Plaintiffs are barred from bringing their claim on the principles of res judicata and collateral estoppel.<sup>1</sup> Defendants argue that Centerline's 1985 financial statement, along with the October 16, 1986 letter from Plaintiffs' attorney written to Earl Lambert in his capacity as Centerline's president, prove that Plaintiffs were aware of the transfer of Centerline's assets and equipment to Alcan in October of 1986.

The 1986 letter provides in relevant part:

Your financial statements show that all of Centerline Corporation assets have been improperly dissipated to other corporations owned by you such as Alcan Corporation, Letma, Inc., and Lamco Imports. Should we sue we will have to include all these corporations and yourself as president and director and as owner [of] Lamco Imports. Other directors will also be included in the suit. You personally guaranteed this note.

### **Discussion**

Before reaching the merits of Defendants' claims, the Court must recite the well-settled standard of review applicable to motions for summary judgment. This Court will grant a motion for summary judgment only if it is clear from the record "that there

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<sup>1</sup> Although Defendants raise the issues of both res judicata and collateral estoppel in their motion, their argument is based only on res judicata. Thus, that is the only issue this Court will address.

is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). A dispute involving a material fact is "genuine" where "the evidence is such that a reasonable jury would return a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). In determining whether such genuine issues exist, the Court must resolve all reasonable doubts in favor of the nonmoving party. Christopher v. Davis Beach Co., 15 F.3d 38, 40 (3d Cir. 1994).

The general rule of res judicata is that it "prevents litigation of all grounds for, or defenses to, recovery that were previously available to the parties, regardless of whether they were asserted or determined in the prior proceeding." Brown v. Felsen, 442 U.S. 127, 131 (1979). Section 1141(a) of the Bankruptcy Code provides that all parties to a confirmed plan are bound by its terms:

(a) . . . [T]he provisions of a confirmed plan bind the debtor . . . and any creditor . . . whether or not the claim or interest of such creditor . . . is impaired under the plan and whether or not such creditor . . . has accepted the plan. 11 U.S.C. § 1141(a).

Pursuant to Section 1141(a), a bankruptcy court's order confirming plans of reorganization is binding on all parties, and "in the absence of an allegation of fraud in obtaining the judgment" the doctrine of res judicata applies with respect to matters that are covered by the plan and which have been confirmed by final order of a bankruptcy court. 8 Collier on

Bankruptcy ¶ 1141.02[4] (15<sup>th</sup> ed. 1999); see also, Stoll v. Gottlieb, 305 U.S. 165 (1938); see also, U.S. v. Tatum, 943 F.2d 370 (4<sup>th</sup> Cir. 1991) (Discharge in bankruptcy does not preclude subsequent prosecution of the debtor for bankruptcy fraud under the doctrine of collateral estoppel or res judicata.).

Defendants argue that all of Plaintiffs' claims in this matter are those which were dealt with in the bankruptcy court proceedings or are those which could have been raised in that matter and for that reason are now barred by res judicata. Plaintiffs agree with Defendants' statement of the general law of res judicata. However, they argue that because fraud is an exception to that general rule, Counts I and II of their complaint are not barred from litigation.

Whether, at the time of the earlier bankruptcy proceeding, Plaintiffs had notice of the fraud they are now alleging is a question of material fact. Moreover, there is an exception to the principle of res judicata for fraud in obtaining the bankruptcy judgment. Thus, there are not only grounds for denying summary judgment on the basis that there may have been fraud after the bankruptcy judgment, but there are also grounds for denying summary judgment based on the fact that there may have been fraud in obtaining that judgment.

### **Conclusion**

In accordance with the attached Order, Defendants' summary

judgment motion is denied.

ENTER:

DATED: September \_\_\_\_, 1999

\_\_\_\_\_  
RAYMOND L. FINCH  
U.S. DISTRICT JUDGE

A T T E S T:  
Orinn F. Arnold  
Clerk of Court

by: \_\_\_\_\_ Deputy Clerk

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	)	
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_____	)	

O R D E R

Defendants Earl Lambert, his wife Joan Lambert, and his corporations Alcan Corp., Centerline Corp. and Letlam Corp. have moved this Court for summary judgment pursuant to Fed. R. Civ. P. 56. Having carefully considered the submissions of the parties, it is hereby

**ORDERED** that Defendants' motion is **DENIED**.

**ENTER:**

**DATED:** September \_\_\_\_, 1999

\_\_\_\_\_  
**RAYMOND L. FINCH**  
**U.S. DISTRICT JUDGE**

**A T T E S T:**  
**Orinn F. Arnold**  
**Clerk of Court**

by: \_\_\_\_\_  
**Deputy Clerk**